

Chapter 294
Employee Retirement Plan

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CROSS REFERENCES	
Employees generally - see	CHTR. Ch. 5, Sec. 5-6; ADM. Ch. 290
Compensation and salaries - see	CHTR. Ch. 5, Sec. 5-7; M.C.L.A. Secs. 117.3, 117.5, 117.17, 117.19, 117.20, 117.28, 117.32, 117.33
Employees Retirement System - see	M.C.L.A. Secs. 38.601 et seq.; ADM. Ch. 294
Police Department - see	ADM. Ch. 234
Fire Department - see	ADM. Ch. 236
Personnel Advisory Board - see	ADM. Ch. 262
Housing Commission employees - see	ADM. 270.04
Employees Saving Plan - see	ADM. Ch. 292

294.01 ESTABLISHMENT; PURPOSE

- A. The City of Manistee Employee Retirement System is hereby established for the purpose of providing retirement income to certain employees and former employees and survivor income to certain of their beneficiaries, and to continue the provisions of the City of Manistee Employees Retirement System, established effective March 1, 1953, as provided in Chapter XII of the City Charter, which chapter was repealed by the voters on February 16, 1988.
- B. The City of Manistee Employees Retirement System existing pursuant to Chapter XII of the City Charter is hereby replaced by the retirement system created by this chapter. (Ord. Unno. Passed 9-6-88.)

294.02 DEFINITIONS

As used in this chapter:

- A. "Accumulated member contributions" means the credit balance in a member's individual account in the Member Contribution Fund, including investment income distributed pursuant to Section 294.33.
- B. "City" means the City of Manistee, Michigan, including its departments, agencies and instrumentalities.
- C. "Final average salary" means the final average salary calculated in accordance with the provisions of the coverage plan applicable to the member.
- D. "Form of payment" means the form of payment of a pension selected by a member or otherwise provided for in accordance with the provisions of this chapter.
- E. "Member" means an individual who is a member of the Retirement System. In addition:
1. "General member" means a member who is not a housing member, police member or fire member.
 2. "Housing member" means a member who is employed by the Housing Commission of the City.
 3. "Police member" means a member who is employed by the City as a police officer and who has taken the oath prescribed for police officers.

4. "Fire member" means a member who is employed by the City as a fire-fighter and who has taken the oath prescribed for fire-fighters.
 5. "General member, Supervisory" means a recognized department head appointed by the City Manager, or in the case of the Clerk and Assessor, by the City Council. (Ord. 99-1. Passed 2-2-99)
 - F. "Pension" means a series of monthly payments to a retired member or survivor pension beneficiary as provided for in this chapter.
 - G. "Refund beneficiary" means a person who has been designated to be paid accumulated member contributions in the event of the death of a member or former member, or a residual refund of unexpended accumulated member contributions in the event of the death of a retired member or survivor pension beneficiary.
 - H. "Retired member" means a person who is being paid a pension on account of membership in the Retirement System.
 - I. "Retirement System" means the Retirement System maintained in accordance with the provisions of this chapter.
 - J. "Salary" means the salary defined in the coverage plan applicable to the member.
- "Survivor pension beneficiary" means an individual who is being paid a pension or who has been designated to be paid a pension as a result of the death of a member or retired member. (Ord. Unno. Passed 9-6-88.)

294.03 MEMBERSHIP; EXCLUSIONS; TERMINATION

- A. Each employee of the City shall be a member of the Retirement System unless such employee is excluded from membership in accordance with subsection (b) hereof. Employees who are members of the Retirement System shall be notified in writing of membership status by the Retirement System.
- B. The following officers and employees are excluded from membership:
 1. Elected officials;
 2. Employees designated by the City as being employed in a position normally requiring less than 1,000 hours of work in a calendar year;
 3. Employees for whom the City is making contributions to a private retirement program on behalf of the employee as part of a compensation arrangement and who file with the Retirement System a written application for exemption within thirty days of employment;
 4. An individual employed by the City under an employment contract which specifically excludes the individual from membership in the Retirement System; and
 5. An individual employed by the City under a contract not subject to withholding of Federal Income Tax or FICA tax.
- D. Employees who have exempted themselves from membership may subsequently withdraw the exemption by filing a membership application. Membership shall commence the first day of the first pay period following the application.
- E. The membership of an employee shall cease upon termination of the employee's employment with the City or upon the employee becoming excluded from membership as provided in subsection (b) hereof. (Ord. Unno. Passed 9-6-88.)

294.04 CREDITED SERVICE; FORFEITURE; REINSTATEMENT

- A. Personal service rendered the City by a member shall be credited to the member's credited service account in accordance with Retirement Board rules and regulations, subject to the following limitations. Service shall be credited to the nearest month. In no case shall a member be credited with a year of service for less than ten months of service in any period of twelve consecutive months or more than a month of service for all service in any calendar month or more than a year of service for all service in any period of twelve consecutive months. A member shall not be credited for a month of service unless the member has worked the equivalent of ten or more full-time days during the calendar month.
- B. Credited service shall be forfeited as follows:
 - 1. All credited service shall be forfeited if an individual incurs a break in membership of more than thirty-six consecutive months and is not a vested former member.
 - 2. Credited service for which an individual has made member contributions shall be forfeited if the individual's accumulated member contributions are paid to the individual, the individual's refund beneficiary or the individual's legal representative.
- C. Credited service forfeited because of a break in membership of more than thirty-six consecutive months, as provided in subsection (b) hereof, cannot be reinstated.
- D. Credited service forfeited for a reason other than a break in membership of more than thirty-six consecutive months shall be reinstated if each of the following conditions is met:
 - 1. The member pays the Retirement System all accumulated member contributions previously paid to the member, plus compound interest from the date of the payment to the member to the date of the repayment, at interest rates set by the Retirement Board; and
 - 2. The repayment is completed within thirty-six months of resumption of membership.
 (Ord. Unno. Passed 9-6-88.)

294.05 CREDITED SERVICE FOR INTERVENING MILITARY SERVICE

A member who leaves the employ of the City to enter an armed service of the United States during a period of compulsory military service shall be given credited service for periods of active duty subject to the following:

- A. The member is re-employed by the City within three months following termination of the period of active duty;
- B. The member reinstates any forfeited credited service which can be reinstated;
- C. Credited service shall not be given for periods of active duty following voluntary re-enlistment; and
- D. Credited service shall not be given for periods of active duty which have been used or are usable to obtain or increase a benefit from another retirement program.
- E. The maximum credited service which may be obtained under the provisions of this section is six years. (Ord. Unno. Passed 9-6-88.)

294.06 PURCHASE OF CREDITED SERVICE FOR NON-INTERVENING MILITARY SERVICE

- A. A member who enters an armed service of the United States during a period of compulsory military service prior to employment by the City may purchase credited service for periods of active duty subject to the following:
1. The member pays the Retirement System the purchase cost determined according to subsection (b) hereof;
 2. The aggregate amount of credited service purchased under this subsection cannot exceed five years, reduced by any period of credited service acquired for military service under any other provision of this chapter; and
 3. Credited service may not be purchased for periods of active duty which have been or could be used to obtain or increase a benefit from another retirement program.
- B. The purchase cost for each year of credited service purchased under the provisions of this section is equal to the member's salary at the time of purchase multiplied by the member contribution rate at the date of purchase, together with interest as determined by the Retirement Board from the date of employment to the date of purchase. (Ord. Unno. Passed 9-6-88.)

294.07 CONDITIONS FOR NORMAL RETIREMENT; AMOUNT OF PENSION

- A. A member or vested former member may retire upon fulfilling the following requirements:
1. A written application for normal retirement, in the form prescribed by the Retirement System, is filed with the Retirement System prior to the selected date of retirement;
 2. Employment with the City is terminated prior to the selected date of retirement;
 3. The member or vested former member selects a date of retirement which is the first day of a calendar month; and
 4. The member or vested former member meets an age and service requirement for normal retirement specified in the coverage plan applicable to the member or vested former member.
- B. Except as provided by the provisions of Section 415 of the Internal Revenue Code, the amount of a normal retirement pension is determined in accordance with the coverage plan applicable to the member or vested former member. The pension of a member who has credited service under each of two or more coverage plans shall be determined in accordance with the coverage plan, from among the two or more coverage plans, applicable to the member at the time of termination of membership. (Ord. Unno. Passed 9-6-88.)

294.08 SUSPENSION OF PENSION UPON RE-EMPLOYMENT WITH CITY; EXCEPTIONS

- A. Except as provided in subsection (b) hereof, payment of a pension to a retired member, including a disability-retired member, who has attained age sixty years or who meets an age and service requirement for normal retirement, shall be suspended at the end of the calendar month in which the retired member has been paid by the City for personal services during the calendar year an amount in excess of 100 percent of the amount which causes a decrease or suspension of an old age benefit under the Federal Social Security program for a sixty-five year old, subject to the following:
1. The retired member shall become a member at the beginning of the first full pay period following suspension of payment of the pension;

2. The amount of the pension shall be recomputed upon termination of the period of re-employment with the City, taking into account the credited service and salary resulting from the re-employment;
3. Payment of the pension shall resume the first day of the calendar month following termination of the re-employment;
4. The recomputation shall be made using the provisions of this chapter in effect on the date of the original retirement, unless the retired member acquired at least three years of credited service on account of the re-employment;
5. The recomputed pension shall not be less than the amount of the suspended pension; and
6. Member contributions made for the period of re-employment or term of office shall be paid to the retired member upon resumption of pension payments if the amount of pension is unchanged by the period of re-employment.

- B. The provisions of subsection (a) hereof shall not apply to a retired member who is elected to serve a term as an elected official.

(Ord. Unno. Passed 9-6-88.)

294.09 VESTED TERMINATION OF MEMBERSHIP

- A. A member who ceases to be a member for a reason other than death or retirement shall be a vested former member, provided that the member meets the following requirements:
1. The member meets an age and service requirement for vested termination of membership specified in the coverage plan applicable to the member; and
 2. The member's accumulated member contributions are left on deposit in the Retirement System.
- B. Eligibility for normal retirement and the amount of normal retirement pension shall be determined according to the provisions of this chapter in effect at the time of termination of membership.
- C. An election by a vested former member to be paid accumulated member contributions shall cause forfeiture of credited service and all rights to any benefits of the Retirement System, other than payment of the accumulated member contributions. (Ord. Unno. Passed 9-6-88.)

294.10 DISABILITY RETIREMENT; CONDITIONS; CERTIFICATION BY MEDICAL COMMITTEE; AMOUNT OF PENSION

- A. The Retirement Board may retire a member on account of disability if the following requirements are satisfied:
1. The individual seeking disability retirement was a member at the time the disability was incurred;
 2. A written application for disability retirement, in the form and containing the information prescribed by the Retirement System, has been filed with the Retirement System by the member or the City Manager;
 3. Membership is terminated prior to the selected date of disability retirement;
 4. The member has ten or more years of credited service, or the Retirement Board finds the disability to have been the natural and proximate result of causes arising solely

- and exclusively out of and in the course of the member's performance of duty with the City, and the member is paid workers' compensation weekly benefits on account of the disability;
5. The member submits to all medical examinations and tests, and furnishes copies of all medical reports, requested by the Retirement System or the Medical Committee;
 6. If the member meets an age and service requirement for normal retirement, the cost of all medical examinations, tests and reports shall be paid by the member; and
 7. The Medical Committee makes the certification required under subsection (b) hereof.
- B. A condition for disability retirement is a written certification by the Medical Committee to the Retirement Board that:
1. The member is mentally or physically totally incapacitated for continued employment with the City;
 2. The incapacity is likely to be permanent; and
 3. The member should be retired.
- C. The Medical Committee shall include in its membership at least one licensed physician selected by the Retirement System. The licensed physician shall not be required to be a member of the Retirement Board.
- D. The amount of a disability retirement pension shall be calculated in the same manner as a normal retirement pension. If the Retirement Board finds the disability to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of a member's performance of duty with the City, and the member is paid workers' compensation weekly benefits, the amount of disability retirement pension shall be calculated using the larger of the member's actual credited service or ten years of credited service. If workers' compensation weekly benefits terminate, the amount of the member's actual credited service shall be increased by the period the retired member was in receipt of weekly workers' compensation benefits and the amount of pension recomputed. (Ord. Unno. Passed 9-6-88.)

294.11 DISABILITY PENSION; ANNUAL EARNINGS REPORT; SUSPENSION OF PENSION

Each disability-retired member shall annually submit to the Retirement System, prior to May 1, a statement of earnings from gainful employment during the preceding calendar year. The statement of earnings shall be in the form requested by the Retirement System. Payment of the disability retirement pension shall be suspended for the months of May through December if the amount of earnings from gainful employment during the preceding calendar year is in excess of twelve times the difference between the disability-retired member's final average salary and the amount of the disability pension.

Payment of the disability retirement pension shall be suspended starting with the month of May if the statement of earnings is not received by the Retirement System prior to May 1. The provisions of this section shall not be applied if the disability-retired member meets an age and service requirement for normal retirement specified in the coverage plan applicable to the member at time of disability retirement. (Ord. Unno. Passed 9-6-88.)

294.12 RE-EVALUATION OF DISABILITY-RETIRED MEMBERS; REPORTS BY MEDICAL COMMITTEE; TERMINATION OF PENSION; RE-EMPLOYMENT

- A. The Retirement System may require a disability-retired member to undergo periodic medical or other re-evaluation at the Retirement System's expense, or submit acceptable evidence of continuation of disability, if the member has not met an age and service requirement for normal retirement specified by the coverage plan applicable to the disability-retired member at time of retirement. Medical or other re-evaluations not specifically required by the Retirement System shall be solely at the retired member's expense.
- B. The Retirement Board may suspend payment of a disability pension if the disability-retired member refuses to submit to re-evaluation. If the refusal continues for one year, the Retirement Board may terminate the disability retirement pension and revoke the disability-retired member's right to the disability retirement pension.
- C. A disability pension shall be terminated if the Medical Committee reports to the Retirement Board that the disability-retired member no longer meets the requirements for disability retirement.
- D. A disability-retired member may return to employment with the City or another employer for a trial period not to exceed 120 calendar days without becoming a member or affecting the disability-retired member's status, upon prior approval by the Retirement System. Trial periods of employment shall be limited to two in any five-year period following disability retirement. (Ord. Unno. Passed 9-6-88.)

294.13 STATUS OF DISABILITY-RETIRED MEMBERS UPON TERMINATION OF DISABILITY PENSION

- A. The membership status of a disability-retired member following termination of the disability retirement pension shall be governed by the membership provisions of this chapter. Upon re-acquisition of membership, the credited service of the member at the time of disability retirement shall be restored. Credited service shall not be granted for the period of disability retirement unless the Retirement Board has found the disability to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the disability-retired member's performance of duty with the City. In no case shall credited service be granted for disability retirement time incurred after the date the disability-retired member meets an age and service requirement for normal retirement.
- B. A terminated disability-retired member who does not re-acquire membership shall have actual credited service at the time of disability retirement restored and shall be a vested former member. The former disability-retired member may retire upon meeting the requirements for normal retirement specified by the applicable coverage plan at the time of termination of the disability pension, except that the service requirement for normal retirement shall be waived. (Ord. Unno. Passed 9-6-88.)

294.14 SURVIVOR PENSIONS; AUTOMATIC COVERAGE OF ELIGIBLE BENEFICIARIES; PAYMENT OF ACCUMULATED MEMBER CONTRIBUTIONS

- A. A survivor pension shall be paid to the eligible surviving spouse, eligible surviving children and eligible surviving parents of a deceased member who does not have an elective survivor pension beneficiary designation in effect under this chapter, and the deceased member's accumulated member contributions shall be paid to the refund beneficiary, if the following requirements are met:
1. A written application for the pension, in the form prescribed by the Retirement System, is filed with the Retirement System; and
 2. The Retirement Board finds the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty with the City, and the survivor pension beneficiary is paid City-financed weekly workers' compensation benefits on account of the member's death.
- B. An eligible surviving spouse is the spouse to whom the deceased member was married at time of death. An eligible surviving child is an unmarried natural or adopted child of the deceased member who is under eighteen years of age.
- C. An eligible parent is a natural or adoptive parent of the deceased member.
- D. The survivor pension payable to an eligible surviving spouse is subject to the following conditions:
1. The amount of the eligible surviving spouse's survivor pension shall be equal to the amount of the spouse's weekly workers' compensation benefit converted to a monthly payment basis;
 2. Payment of the eligible surviving spouse's pension shall commence the first day of the month following termination of the surviving spouse's weekly workers' compensation benefit if the surviving spouse has not remarried; and
 3. Payment of a pension to the surviving spouse shall terminate at the end of the month in which the surviving spouse dies or marries.
- E. The survivor pension payable to an eligible surviving child is subject to the following conditions:
1. The amount of the eligible surviving child's survivor pension shall be equal to the amount of the child's weekly workers' compensation benefit converted to a monthly payment basis;
 2. The amount of the eligible surviving child's pension shall be increased by an equal share with each other eligible surviving child of the amount of the eligible surviving spouse's pension the first day of the month following termination of the surviving spouse's pension;
 3. Payment of the eligible surviving child's pension shall commence the first day of the month following termination of the surviving child's weekly workers' compensation benefit if the surviving child is under eighteen years of age and is not married; and
 4. Payment of a pension to the surviving child shall terminate at the end of the month in which the surviving child dies or marries or attains the age of eighteen.

- F. The survivor pension payable to a surviving parent is subject to the following conditions:
 - 1. The amount of the eligible surviving parent's survivor pension shall be equal to the amount of the parent's weekly workers' compensation benefit converted to a monthly payment basis;
 - 2. Payment of the eligible surviving parent's pension shall commence the first day of the month following termination of the surviving parent's weekly workers' compensation benefit;
 - 3. Payment of a pension to the surviving parent shall terminate at the end of the month in which the surviving parent dies.
- G. For purposes of this section, termination of a weekly workers' compensation benefit shall occur at the time obtained by adding to the date that weekly payments terminate the period of weeks obtained by dividing any lump sum redemption or settlement by the amount of the last weekly benefit paid. (Ord. Unno. Passed 9-6-88.)

294.15 PAYMENT OF SURVIVOR PENSIONS TO DESIGNATED SURVIVOR PENSION BENEFICIARIES

- A. A survivor pension shall be paid for life to the designated survivor pension beneficiary of a deceased member who has elected optional form of payment A and designated a survivor pension beneficiary in accordance with the provisions of this chapter, if the following requirements are met:
 - 1. A written application for the pension, in the form prescribed by the Retirement System, is filed with the Retirement System;
 - 2. The member meets an age and service requirement for designated survivor pension beneficiary eligibility specified by the coverage plan applicable to the member; and
 - 3. The Retirement Board finds the designated survivor pension beneficiary to have been at least fifty-percent financially dependent upon the deceased member.
- B. The amount of pension is calculated in the same manner as a normal retirement pension under form of payment A, in accordance with the coverage plan applicable to the member at time of death.
- C. An election of form of payment A may be rescinded and the designated survivor pension beneficiary may be changed by the member at any time prior to the date a pension payment is made to the member.
- D. The designation of the deceased member's surviving spouse as survivor pension beneficiary and the election of form of payment A shall be made by the Retirement Board on behalf of a deceased member if the deceased member has not made the election and designation provided for in subsection (a) hereof. A spouse shall be presumed to satisfy the dependency requirement specified in subsection (a) hereof. (Ord. Unno. Passed 9-6-88.)

294.16 GENERAL MEMBER COVERAGE PLAN 1

- A. Applicability. General Member Coverage Plan 1 is applicable to general members who are not specifically covered by another coverage plan.

- B. Member Contribution Rate. A member covered by General Member Coverage Plan 1 shall contribute six percent of his or her salary.
- C. Age and Service Requirements for Normal Retirement. The age and service requirements for normal retirement are age sixty years or older and ten or more years of credited service.
- D. Amount of Normal Retirement Pension Under Form of Payment SL. The amount of a normal retirement pension under form of payment SL is equal to one and four tenths percent of final average salary multiplied by credited service.
(Ord. 95-4 Passed 8-15-95 effective 7-1-97.)
- E. Salary Defined. As used in this section, "salary" means the base salary or wages paid to a member for personal services rendered to the City, including longevity pay, overtime pay, holiday and vacation pay, payments for unused vacation time and payments for unused sick leave. The term "salary" shall not include allowances for housing, clothing, equipment or travel and any other form of remuneration not specifically designated as included in the definition of the term "salary" for purposes of this chapter.
- F. Final Average Salary Defined. As used in this section, "final average salary" means one-sixtieth of the greatest aggregate amount of salary paid a member for sixty consecutive months of credited service contained within the last 120 months of credited service. For a member having less than sixty consecutive months of credited service, the term "final average salary" means the aggregate amount of salary paid a member for the member's period of credited service divided by the member's credited service.
- G. Age and Service Requirements for Vested Termination of Membership Eligibility. The age and service requirements for vested termination of membership as provided in Section 294.09 are:
1. Age fifty-five years or older and fifteen or more years of credited service; or
 2. Any age and twenty-five or more years of credited service.
- H. Age and Service Requirements for Designated Survivor Pension Beneficiary Eligibility. The age and service requirements for designated survivor pension beneficiary eligibility as provided in Section 294.15 are:
1. Age fifty-five years or older and ten or more years of credited service; or
 2. Any age and twenty-five or more years of credited service. (Ord. Unno. Passed 9-6-88.)

294.17 GENERAL MEMBER, SUPERVISORY COVERAGE PLAN 1

- A. Applicability. General Member Supervisory Coverage Plan 1 is applicable to department heads specifically appointed by the City Manager or in the case of the Clerk and Assessor, by the City Council. The Retirement Board may require that the City Manager submit a list of members so designated from time to time.
- B. Member Contribution Rate. A member covered by General Member, Supervisory Coverage Plan 1 shall contribute 6% of his or her salary.

- C. Age and Service Requirements for Normal Retirement. The age and service requirements for normal retirement are age 55 years or older with 30 or more years of credited service; or age 60 years or older with 10 or more years of credited service.
- D. Amount of Normal Retirement Pension Under Form of Payment SL.
1. Except as provided in paragraph (d) (2) hereof, the amount of normal retirement pension under Form of Payment SL is equal to final average salary multiplied by the sum of the following percents:
 - (a) Two percent multiplied by credited service, to a maximum of 30 years.
 2. The percent multiplier times credited service shall not exceed 60% except for members who have in excess of 30 years of credited service at the time of this amendment in which case the percent shall not exceed 70%.
- E. Salary Defined. As used in this section, “salary” means the base salary or wages paid to a member for personal services rendered to the City, including longevity pay, overtime pay, holiday and vacation pay, payments for unused vacation time and payments for unused sick leave. The term “salary” shall not include allowances for housing, clothing, equipment or travel and any other form of remuneration not specifically designated as included in the definition of the term “salary” for purposes of this chapter.
- F. Final Average Salary Defined. As used in this section, “final average salary” means one-sixtieth of the greatest aggregate amount of salary paid a member for sixty consecutive months of credited service contained within the last 120 months of credited service. For a member having less than sixty consecutive months of credited service, the term “final average salary” means the aggregate amount of salary paid a member for the member’s period of credited service divided by the member’s credited service.
- G. Age and Service Requirements for Vested Termination of Membership Eligibility. The age and service requirements for vested termination of membership as provided in Section 294.09 are:
1. Age fifty-five years or older and fifteen or more years of credited service; or
 2. Any age and twenty-five or more years of credited service.
- H. Age and Service Requirements for Designated Survivor Pension Beneficiary Eligibility. The age and service requirements for designated survivor pension beneficiary eligibility as provided in Section 294.15 are:
1. Age fifty-five years or older and ten or more years of credited service; or
 2. Any age and twenty-five or more years of credited service.
- (Ord. 99-1, passed 2-12-99)

294.18 HOUSING MEMBER COVERAGE PLAN 1

- A. Applicability. Housing Member Coverage Plan 1 is applicable to housing members who are not specifically covered by another coverage plan.

- B. Member Contribution Rate. A member covered by Housing Member Coverage Plan 1 shall contribute six percent of his or her salary.
- C. Age and Service Requirements for Normal Retirement. The age and service requirements for normal retirement are age sixty years or older and ten or more years of credited service.
- D. Amount of Normal Retirement Pension Under Form of Payment SL. The amount of a normal retirement pension under form of payment SL is equal to one and two-tenths percent of final average salary multiplied by credited service.
- E. Salary Defined. As used in this section, "salary" means the base salary or wages paid a member for personal services rendered the City, including longevity pay, overtime pay, holiday and vacation pay, payments for unused vacation time and payments for unused sick leave. The term "salary" shall not include allowances for housing, clothing, equipment or travel and any other form of remuneration not specifically designated as included in the definition of the term "salary" for purposes of this chapter.
- F. Final Average Salary Defined. As used in this section, "final average salary" means one-sixtieth of the greatest aggregate amount of salary paid a member for sixty consecutive months of credited service contained within the last 120 months of credited service. For a member having less than sixty consecutive months of credited service, the term "final average salary" means the aggregate amount of salary paid a member for the member's period of credited service divided by the member's credited service.
- G. Age and Service Requirements for Vested Termination of Membership Eligibility. The age and service requirements for vested termination of membership as provided in Section 294.09 are:
 - 1. Age fifty-five years or older and fifteen or more years of credited service; or
 - 2. Any age and twenty-five or more years of credited service.
- H. Age and Service Requirements for Designated Survivor Pension Beneficiary Eligibility. The age and service requirements for designated survivor pension beneficiary eligibility as provided in Section 294.15 are:
 - 1. Age fifty-five years or older and ten or more years of credited service; or
 - 2. Any age and twenty-five or more years of credited service.
 (Ord. Unno. Passed 9-6-88.)

294.19 FIRE MEMBER COVERAGE PLAN 1

- A. Applicability. Fire Member Coverage Plan 1 is applicable to fire members who are not specifically covered by another coverage plan.
- B. Member Contribution Rate. A member covered by Fire Member Coverage Plan 1 shall contribute eight percent of his or her salary.
- C. Age and Service Requirements for Normal Retirement. The age and service requirements for normal retirement are age fifty years or older and ten or more years of credited service.

- D. Amount of Normal Retirement Pension Under Form of Payment SL. Except as provided in paragraph (d)(2) hereof, the amount of a normal retirement pension under form of payment SL is equal to final average salary multiplied by the sum of the following percents:
1. Two and one-half percent multiplied by credited service, to a maximum of thirty years;
 2. The percent multiplier times credited service shall not exceed 75%.
- (Ord. 95-5, effective 7-1-94)
- E. Salary Defined. As used in this section, "salary" means the base salary or wages paid a member for personal services rendered to the City, including longevity pay, overtime pay, holiday and vacation pay, payments for unused vacation time and payments for unused sick leave. The term "salary" shall not include allowances for housing, clothing, equipment or travel and any other form of remuneration not specifically designated as included in the definition of the term "salary" for purposes of this chapter.
- F. Final Average Salary Defined. As used in this section, "final average salary" means one-sixtieth of the greatest aggregate amount of salary paid a member for thirty-six consecutive months of credited service contained within the last 120 months of credited service. For a member having less than thirty-six consecutive months of credited service, the term "final average salary" means the aggregate amount of salary paid a member for the member's period of credited service divided by the member's credited service.
- G. Age and Service Requirements for Vested Termination of Membership Eligibility. The age and service requirements for vested termination of membership as provided in Section 294.09 are:
1. Age fifty-five years or older and fifteen or more years of credited service; or
 2. Any age and twenty-five or more years of credited service.
- H. Age and Service Requirements for Designated Survivor Pension Beneficiary Eligibility. The age and service requirements for designated survivor pension beneficiary eligibility as provided in Section 294.15 are:
1. Age fifty-five years or older and ten or more years of credited service; or
 2. Any age and twenty-five or more years of credited service.
- (Ord. Unno. Passed 9-6-88.)

294.20 POLICE MEMBER COVERAGE PLAN 1

- A. Applicability. Police Member Coverage Plan 1 is applicable to police members who are not specifically covered by another coverage plan.
- B. Member Contribution Rate. A member covered by Police Member Coverage Plan 1 shall contribute seven percent of his or her salary.
(Changed by Contract 10-5-93)
- C. Age and Service Requirements for Normal Retirement. The age and service requirements for normal retirement are age fifty years or older and ten or more years of credited service.
(Ord. Unno. Passed 9-6-88.) (Changed by Contract 10-5-93)

- D. Amount of Normal Retirement Pension Under Form of Payment SL. The amount of a normal retirement pension under form of payment SL is equal to final average salary multiplied by the sum of the following percents:
1. Two and one-half percent multiplied by credited service to a maximum of thirty years; and
 2. The percent multiplier times credited service shall not exceed seventy-five percent.
- (Changed by Contract 10-5-93)
- E. Salary Defined. As used in this section, "salary" means the base salary or wages paid a member for personal services rendered the City, including longevity pay, overtime pay, holiday and vacation pay, payments for unused vacation time and payments for unused sick leave. The term "salary" shall not include allowances for housing, clothing, equipment or travel and any other form of remuneration not specifically designated as included in the definition of the term "salary" for purposes of this chapter.
(Ord. Unno. Passed 9-6-88.)
- F. Final Average Salary Defined. "Final average salary" means one thirty-sixth of the greatest aggregate amount of salary paid a member for thirty-six consecutive months of credited service contained within the last 120 months of credited service. For a member having less than thirty-six consecutive months of credited service, the term "final average salary" means the aggregate amount of salary paid a member for the member's period of credited service divided by the member's credited service.
(Ord. Unno. Passed 12-18-90.)
- G. Age and Service Requirements for Vested Termination of Membership Eligibility. The age and service requirements for vested termination of membership as provided in Section 294.09 are:
1. Age fifty-five years or older and fifteen or more years of credited service; or
 2. Any age and twenty-five or more years of credited service.
- H. Age and Service Requirements for Designated Survivor Pension Beneficiary Eligibility. The age and service requirements for designated survivor pension beneficiary eligibility as provided in Section 294.15 are:
1. Age fifty-five years or older and ten or more years of credited service; or
 2. Any age and twenty-five or more years of credited service.
- (Ord. Unno. Passed 9-6-88.)

294.21 ELECTION OF FORM OF PENSION PAYMENT

- A. A member may elect to have pension payments made under any one of the forms of payment provided in this chapter and name a survivor pension beneficiary.

The election of form of payment and the naming of a survivor pension beneficiary shall be made on a form furnished by and filed with the Retirement System prior to the date the first pension payment is made. An election of form of payment may not be changed after

the date the first pension payment is made. A named survivor pension beneficiary of a retired member shall have an insurable interest in the life of the retired member on the date first payment of the pension is made. A named survivor pension beneficiary of an active member shall be fifty percent financially dependent upon the active member at time of death. Dependency shall be presumed if the named survivor pension beneficiary is the spouse of the active member. Payment shall be made under form of payment SL if there is not a timely election of another form of payment.

- B. The amount of pension under forms of payment A and B shall have the same actuarial present value, computed as of the effective date of the pension, as the amount of pension under form of payment SL. (Ord. Unno. Passed 9-6-88.)

294.22 FORMS OF PENSION PAYMENTS

- A. Straight Life Pension Under Form of Payment SL. A retired member is paid the pension for life under form of payment SL. All payments stop upon the death of the retired member, except as provided in subsection (e) hereof. The amount of pension is determined in accordance with the coverage plan applicable to the retired member.
- B. Life Payments With Full Continuation to Survivor Beneficiary Under Form of Payment A. A retired member is paid a reduced pension for life under form of payment A. Upon the death of the retired member during the lifetime of the named survivor pension beneficiary, the named survivor pension beneficiary is paid the full amount of the reduced pension until death.
- C. Life Payments With One-Half Continuation to Survivor Beneficiary Under Form of Payment B. The retired member is paid a reduced pension for life under form of payment B. Upon the death of the retired member during the lifetime of the named survivor pension beneficiary, the named survivor pension beneficiary is paid one-half the amount of the reduced pension until death.
- D. Life Payments With Temporary Survivor Benefits for Children Under Form Of Payment C. The retired member is paid a reduced pension for life under form of payment C. Upon the death of the retired member during the lifetime of a declared eligible child of the retired member, each declared eligible child is paid a share of the reduced pension until death or age twenty-five years, whichever occurs first. The share is the share specified in writing and filed with the Retirement System by the retired member. If shares are not specified in writing and filed with the Retirement System, each declared eligible child is paid an equal share of the reduced pension. Re-determination of shares shall be made when the pension of any child terminates. An eligible child is a natural or adopted child of the retired member who is under age twenty-five years. A declared eligible child is an eligible child whose name has been declared in writing and filed with the Retirement System by the retired member at the time of election of form of payment C. The amount of pension shall be changed to the amount of pension that would have been payable had the retired member elected form of payment A upon there ceasing to be a declared eligible child during the lifetime of the retired member.

- E. Refund of Difference Between Accumulated Member Contribution and Aggregate Amount of Pension Paid. If all pension payments permanently terminate before there is paid an aggregate amount equal to the former member's accumulated member contributions at the time of retirement, the difference between the amount of accumulated member contributions and the aggregate amount of pension paid shall be paid to the refund beneficiary. If no refund beneficiary survives the former member, the difference shall be paid to the estate of the former member. (Ord. Unno. Passed 9-6-88.)

294.23 SUPPLEMENTAL PENSION DISTRIBUTION

- A. A supplemental pension distribution as described in subsection (b) hereof may be made annually in the form of an additional pension check during the month of January. The issuance of an additional check will be determined by the availability of excess funds pursuant to subsection (b) hereof.

In the event that the Retirement Board does not authorize a Supplemental Pension Distribution in January 2004 under Section 294.23 to retirement members and because it determines that there are no excess funds available for distribution in 2003, the Retirement Board may authorize a special one-time distribution in January 2004 of up to a total of \$20,000 to retirement members and survivor beneficiaries. The special one-time distribution shall be made pursuant to a formula that credits each retirement member with one retirement point for each full year they have been retired and credits each survivor beneficiary with one retirement point for each full year that the retirement member would have been retired were they still alive. The \$20,000 total one-time special distribution pool shall be distributed to each retirement member and survivor beneficiary in the same proportion as their retirement points are in relation to the total retirement points of all retirement members and survivor beneficiaries. This special one-time distribution is to be distributed in January 2004 based upon an individual's status as a retirement member or survivor beneficiary as of December 31, 2003. This special one-time January 2004 distribution shall not change or in any way modify the normal fixed monthly pension benefit. (Ord. 04-01, adopted 1-6-04)

- B. The following provisions govern the implementation and intent of this section:
1. Eligible recipients. Eligibility is limited to retired members and survivor beneficiaries who receive a monthly pension from the Retirement System. Upon a retired member's death, only the designated survivor beneficiary at the time of retirement who is otherwise eligible to receive a monthly pension shall be eligible to receive a supplemental pension distribution.
 2. Excess funds. Excess funds available for the supplemental pension distribution shall be said to exist if the ratio of Retirement System assets over actuarial accrued liabilities exceeds 125 percent and no additional City contribution is required during the year. The funds available for distribution will be those assets in excess of the 125-percent ratio. This ratio shall be subject to re-examination in the event that a change occurs in the status of the Retirement System which would require additional City contributions during the year if a supplemental pension distribution is made.
 3. 100 percent cost of living adjustment. A 100 percent cost of living adjustment shall be the amount payable if the recipient's pension had been fully indexed for inflation from

the month of retirement to the November preceding the payment of the supplemental distribution. Inflation will be measured by the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers before 1978, all Urban Consumers after 1977, 1982-84=100, U.S. City Average.

4. Computation of supplemental pension distribution amount. Eligible recipients shall be entitled to receive an additional check in an amount not to exceed the amount necessary to obtain a 100 percent cost of living adjustment. In the event that excess funds are not sufficient to provide a 100 percent cost of living adjustment, proportionate amounts shall be paid to each eligible recipient so that each would receive the same percentage of the 100 percent cost of living adjustment.
 5. Distribution. The Retirement Board will annually determine if excess funds are available for distribution pursuant to the provisions of this section and authorize payments to eligible retired members and survivor beneficiaries.
- C. This section shall not change or in any way modify the normal fixed monthly pension benefit. The supplemental pension distribution shall not create an actuarial liability for the Member Contribution Fund. A supplemental pension distribution shall not be made except in accordance with this section. (Ord. Unno. Passed 2-1-94.)

294.24 COMMENCEMENT, TERMINATION AND CHANGE IN AMOUNT OF PENSIONS

- A. A normal or disability pension shall commence the first day of the month following retirement. A pre-retirement survivor pension shall commence the first day of the month following the date of the death resulting in the pension. A post-retirement survivor pension shall commence the first day of the month following the date of the death resulting in the pension.
- B. Termination of payment of a pension shall occur at the end of the month in which the event causing termination occurs. Payment shall be made for the full month of termination.

A change in the amount of a pension shall occur the first day of the month following the date of the event causing the change. (Ord. Unno. Passed 9-6-88.)

294.25 DENIAL OF BENEFIT CLAIMS; APPEALS

- A. A benefit claimant shall be notified in writing, within thirty days, of denial of a claim for benefits. The notification shall give the reason for the denial. A claimant may appeal the denial and request a hearing. The appeal shall be in writing and filed with the Retirement System within ninety days of the denial. The appeal shall contain a statement of the claimant's reason for claiming the denial to be improper. The Retirement Board shall schedule a hearing of the appeal before the Retirement Board or, at the discretion of the Retirement Board, a committee of the Retirement Board, within sixty days of receipt of the appeal. A final decision on the matter being appealed shall be made by the Retirement Board.
- B. Appeals from a final decision of the Retirement Board shall be to the circuit court and initiated by filing a notice of appeal with the circuit court within thirty days after the Retirement Board has issued its final decision. The review of the circuit court shall be

restricted to the record made before the Retirement Board, and the circuit court shall not permit the introduction of new evidence on any of the issues presented before the Retirement Board.

The decision of the Retirement Board shall be upheld by the circuit court unless the circuit court finds the decision of the Retirement Board to be unlawful, arbitrary, capricious or not supported by substantial evidence on the entire record as submitted by the Retirement Board. (Ord. Unno. Passed 9-6-88.)

294.26 CONTINUATION OF GROUP HEALTH INSURANCE FOR RETIRED MEMBERS OR SURVIVOR PENSION BENEFICIARIES

A retired member or survivor pension beneficiary may continue to be insured under the provisions of any City group health insurance plan in effect at the time of retirement or death or under the terms of any separate subsequent City group health insurance plan if the retired member or survivor pension beneficiary pays the periodic premium charges which may be required and consents to have the Retirement System deduct the periodic premium charges from the retired member's or survivor pension beneficiary's pensions. (Ord. Unno. Passed 9-6-88.)

294.27 ACCOUNTING FUNDS OF RETIREMENT SYSTEM

A. The accounting funds of the Retirement System are follows:

1. The Member Contribution Fund;
2. The City Contribution Fund;
3. The Pension Payment Fund; and
4. The Undistributed Investment Income Fund.

The maintenance of separate accounting funds shall not require the actual segregation of the assets of the Retirement System among the various accounting funds.

B. The accounting funds provided for in subsection (a) hereof are trust funds and shall be used only for the purposes provided in this chapter. (Ord. Unno. Passed 9-6-88.)

294.28 MEMBER CONTRIBUTION FUND; DEDUCTION OF CONTRIBUTIONS; TRANSFERS TO AND FROM PENSION PAYMENT FUND

A. The Member Contribution Fund is the accounting Fund in which shall be accumulated contributions made by members and which shall be charged with refunds and transfers of accumulated member contributions as provided in this chapter.

The City shall cause member contributions specified by the coverage plan applicable to a member to be deducted from the salary of each member. The City shall remit the deducted member contributions to the Retirement System in accordance with the procedures and schedules established by the Retirement System. The Retirement System may assess an interest charge and a penalty charge on any remittance not made by its due date.

Each member shall be deemed to consent and agree to the deductions made and provided for in this section by continuing employment with the City. Contributions of members shall be credited to the members' individual accounts in the Member Contribution Fund.

- B. A member's or vested former member's accumulated contributions shall be transferred to the Pension Payment Fund if a pension becomes payable upon the retirement or death of the member or vested former member. If a disability pension is terminated for a reason other than the death of the retired member before an amount equal to the retired member's accumulated member contributions has been paid, the unexpended balance of the accumulated member contributions shall be transferred from the Pension Payment Fund to the former retired member's individual account in the Member Contribution Fund. (Ord. Unno. Passed 9-6-88.)

294.29 REFUNDS OF MEMBER CONTRIBUTIONS

- A. The accumulated member contributions of a former member shall be paid to the former member upon written application filed with the Retirement System.
- B. The accumulated member contributions of a member on leave of absence from the City as a consequence of his or her entry into active duty with the armed forces of the United States shall be paid to the member upon written application filed with the Retirement System.
- C. If a member or former member dies and no pension becomes payable on account of the death, the deceased member's or former member's accumulated member contributions shall be paid to the refund beneficiary named in the most recent designation of refund beneficiary on file with the Retirement System, unless that beneficiary is deceased. If there is not a living refund beneficiary named in the most recent designation of refund beneficiary on file with the Retirement System, the deceased member's or former member's accumulated member contributions shall be paid to the legal representative of the deceased member or former member.
- D. Except as otherwise provided in this chapter, at the expiration of a period of five years from the date a member ceases to be a member, the member's accumulated member contributions unclaimed by the former member or refund beneficiary shall be transferred to the Undistributed Investment Income Fund. (Ord. Unno. Passed 9-6-88.)

294.30 PICK UP OF EMPLOYEE CONTRIBUTIONS

Upon implementation, the City shall, solely for the purpose of compliance with Section 414(h) of the Internal Revenue Code, pick up, for the purposes specified in that section, member contributions required by this chapter for all salary earned by the member after implementation. Member contributions picked up under the provisions of this section shall be treated as City contributions for purposes of determining income tax obligations under the Internal Revenue Code. However, such picked up member contributions shall be included in the determination of the member's gross annual salary for all other purposes under Federal and State laws.

Members' contributions picked up under this section shall continue to be designated member contributions for all purposes of this chapter and shall be considered as part of the member's salary for purposes of determining the amount of the member's contribution. The provisions of this section are mandatory, and the member shall have no option concerning the pick up, nor shall any member be entitled to receive the contributed amounts directly instead of having

them paid by the City to the Retirement System. Implementation occurs upon authorization by the Retirement System. In no event may implementation occur other than at the beginning of a pay period. (Ord. Unno. Passed 9-6-88.)

294.31 CITY CONTRIBUTION FUND; TRANSFERS TO PENSION PAYMENT FUND

- A. The City Contribution Fund is the Fund in which shall be accumulated contributions made by the City. The City shall remit its contributions to the Retirement System in accordance with the procedures and schedules established by the Retirement System. The Retirement System may assess an interest charge and a penalty charge on any remittance not made by its due date.
- B. Each year following receipt of the report of the annual actuarial valuation, the excess, if any, of the reported actuarial present value of pensions being paid retired members and survivor pension beneficiaries and residual refunds likely to be paid to refund beneficiaries of retired members and to survivor pension beneficiaries, over the balance in the Pension Payment Fund, shall be transferred to the Pension Payment Fund. (Ord. Unno. Passed 9-6-88.)

294.32 PENSION PAYMENT FUND

The Pension Payment Fund is the Fund from which shall be paid all pensions to retired members and survivor pension beneficiaries and all residual refunds to refund beneficiaries of retired members and survivor pension beneficiaries. (Ord. Unno. Passed 9-6-88.)

294.33 UNDISTRIBUTED INVESTMENT INCOME FUND

The Undistributed Investment Income Fund is the Fund to which shall be credited all interest, dividends, rents and other income from investments of the Retirement System, all gifts and bequests, all unclaimed member contributions and all other money, the disposition of which is not specifically provided for in this chapter. There shall be paid or transferred from the Undistributed Investment Income Fund all administrative expenses of the Retirement System. (Ord. Unno. Passed 9-6-88.)

294.34 DISTRIBUTION OF MONEYS IN THE UNDISTRIBUTED INVESTMENT INCOME FUND

The Retirement System shall at least annually distribute all or a portion of the balance in the Undistributed Investment Income Fund to the Member Contribution Fund, the Pension Payment Fund and the City Contribution Fund. Distribution rates shall be determined by the Retirement Board and may vary by fund. (Ord. Unno. Passed 9-6-88.)

294.35 FUNDING OBJECTIVE

- A. The funding objective of the Retirement System is to establish and receive each fiscal year City contributions which are sufficient, together with member contributions, to:
 - 1. Fund the actuarial cost of benefits likely to be paid on account of credited service earned by members during the fiscal year (the normal cost); and
 - 2. Fund the unfunded actuarial cost of benefits likely to be paid on account of credited service earned by members prior to the current fiscal year over periods of not more than forty years. Contributions shall be determined by annual actuarial valuation

using a level percent of payroll actuarial cost method, which produces a contribution not less than that produced by the individual entry age actuarial cost method.

- B. The Retirement Board shall certify to the City Council and the City Manager the amount of contribution needed to satisfy the funding objective, and the City Council shall appropriate and cause the contribution to be paid to the Retirement System. (Ord. Unno. Passed 9-6-88.)

294.36 RETIREMENT BOARD

A Powers; Composition.

1. The Retirement Board shall be the trustee of the Retirement System and shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, in addition to any other specific powers provided for in this chapter, but without limiting the generality of the foregoing, the power:
 - (a) To administer this chapter, including the management of the Retirement System and making effective the provisions of this chapter;
 - (b) To employ competent legal counsel, in addition to the services of the City Attorney, to handle the legal matters of the Retirement Board and the Retirement System, to give advice and counsel in regard to any matter connected with the duties of the Retirement Board and, in the discretion of the Retirement Board, to represent the Retirement Board in legal proceedings;
 - (c) To administer oaths;
 - (d) To adopt and use a seal for authentication of records, processes and proceedings;
 - (e) To create and maintain records relating to all members, the City and all activities and duties required of the Retirement Board;
 - (f) To issue subpoenas and compel the production of evidence and the attendance of witnesses in connection with any hearings or proceedings of the Retirement Board;
 - (g) To make and execute contracts;
 - (h) To make and adopt such reasonable rules and regulations as may be necessary or convenient to carry out the duties of the Retirement Board and the activities of the Retirement System, including any rules and regulations necessary to preserve the status of the Retirement System as a qualified pension plan under the provisions of the Internal Revenue Code of the United States, as amended, or under successor or related provisions of law;
 - (i) To designate committees and to designate committee members, including individuals who may not be members of the Retirement System.
2. The Retirement Board shall consist of:
 - (a) A member of the City Council, to be appointed by and serve at the pleasure of the City Council;
 - (b) An appointed officer of the City, to be appointed by and serve at the pleasure of the City Council; (Ord. Unno. Passed 9-6-88.)
 - (c) A resident of the City who is an elector and freeholder of the City, to be appointed by the Mayor, by and with the consent of the City Council; (Ord. Unno. Passed 10-19-93.)

- (d) One general member of the Retirement System, to be elected by the general members of the Retirement System; and
- (e) One member of the Retirement System who is either a fire member or a police member, to be elected by the fire members and the police members of the Retirement System.

B. Election of Members; Terms; Removals From Office; Vacancies; Compensation.

- 1. Members of the Retirement Board shall be elected by the members of the Retirement System. Such elections shall be conducted according to rules and regulations that the Retirement Board shall, from time to time, adopt.
- 2. The regular term of office of the members of the Retirement Board elected by the members of the Retirement System shall be three years. The term of one Retirement Board member shall expire annually on August 31. Members of the Retirement Board shall serve until their successors have qualified.
- 3. A member elected to the Retirement Board who fails to attend four consecutively scheduled meetings of the Retirement Board, unless in each case excused for cause by the Retirement Board members in attendance, shall be considered to have resigned from the Retirement Board, and the Retirement Board shall, by resolution, declare the office vacated as of the date of adoption of the resolution. A vacancy occurring on the Retirement Board shall be filled in the same manner as the office was previously filled.
- 4. Members of the Retirement Board shall serve without additional salary for their services as Retirement Board member. They shall be reimbursed for necessary and reasonable travel expenses, and employee members shall suffer no loss of salary or wage in fulfilling their Retirement Board duties.

C. Meetings; Rules of Procedure; Quorum; Voting. The Retirement Board shall hold four regular meetings, one in each calendar quarter, and shall designate, in advance, the time and place of the meetings. Special meetings and emergency meetings of the Retirement Board may be held upon call of the Chairperson or any three members of the Retirement Board. Written notice of special meetings shall be sent to each member of the Retirement Board at least seventy-two hours in advance of the special meeting. Verbal notice of emergency meetings shall be given to as many members as is feasible at least eight hours before the emergency meeting, and the meeting shall commence with a statement of the nature of the emergency. The Retirement Board shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings of the Retirement Board shall comply with the Michigan Open Meetings Act. A majority of Retirement Board members shall constitute a quorum. Each attending member of the Retirement Board is entitled to one vote on each question before the Retirement Board, and at least a majority of a quorum shall be necessary for a decision by the Retirement Board.

D. Election of Officers; Employment of Professional Services; City Attorney as Legal Advisor; Finance Director as Treasurer.

- 1. The Retirement Board shall elect from its own number a Chairperson and a Vice-Chairperson.
- 2. The Retirement Board shall appoint an administrative secretary who shall be the Chief Administrative Officer for the Retirement Board and the Retirement System.

3. The Retirement Board shall employ professional, technical, clerical and other services as required for the operation of the Retirement System. The compensation for employed services shall be fixed by the Retirement Board.
4. The City Attorney shall be a legal advisor to the Retirement Board.
5. The Finance Director shall be the Treasurer of the Retirement System and the custodian of its assets, except assets the Retirement Board may, from time to time, place in the custody of a nationally chartered bank or trust company. The Finance Director's general bond to the City shall cover all liability for acts as Treasurer of the Retirement System. The Treasurer shall credit all receipts of money and assets of the Retirement System to the Retirement System. The Treasurer shall make disbursements from the Retirement System assets only upon City warrants signed by the City Clerk and countersigned by the Finance Director. No warrant shall be drawn unless it has been previously authorized by a general or specific resolution of the Retirement Board. (Ord. Unno. Passed 9-6-88.)

294.37 INVESTMENT OF FUNDS BY RETIREMENT BOARD; TYPES OF INVESTMENTS; CONFLICTS OF INTEREST

- A. The Retirement Board is trustee of the assets of the Retirement System, and it may invest and reinvest the assets subject to the terms, conditions, limitations and restrictions imposed by the State on the investments of public employee retirement systems (Act 55 of the Public Acts of 1982, as amended, as of December 31, 1987).
- B. The Retirement Board may employ outside investment counsel to advise the Board in the making and disposition of investments.
- C. All assets of the Retirement System shall be held and invested for the sole purpose of meeting the legitimate obligations of the Retirement System and shall be used for no other purpose. No part of the assets shall be used for or diverted to purposes other than for the exclusive benefit of members and beneficiaries prior to satisfaction of all Retirement System liabilities.
- D. Members of the Retirement Board and its employees are prohibited from:
 1. Having a beneficial interest, direct or indirect, in an investment of the Retirement System;
 2. Borrowing from the Retirement System; and
 3. Receiving any pay or emolument from any individual or organization providing services to the Retirement System.
- E. In exercising its discretionary authority, the Retirement Board shall exercise the care, skill, prudence and diligence under the circumstances then prevailing that a person of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like characteristics and with like aims. (Ord. Unno. Passed 9-6-88.)

294.38 FUNDS NOT SUBJECT TO PROCESS

None of the money, pensions or other benefits mentioned in this chapter shall be assignable, either in law or in equity, or be subject to execution, levy, attachment, garnishment or other legal process. (Ord. Unno. Passed 9-6-88.)

294.39 BENEFITS SUBJECT TO COURT ORDER

The right of an individual to a pension, to the return of accumulated member contributions, to the pension itself or to any other benefit under the provisions this chapter, shall be subject to award by a court of competent jurisdiction pursuant to Section 18 of Chapter 84, Michigan Revised Statutes of 1946, being M.C.L.A. 552.18, as amended, and to any other order of a court of competent jurisdiction pertaining to child support. If an award or order requires the Retirement System to withhold payment of a pension, accumulated member contributions or another benefit from the individual to whom it is due, or requires the Retirement System to make payment to a spouse, former spouse or child, the withholding or payment provisions of the award shall be effective only against the amounts as they become payable to the individual being paid the pension or other benefit. These limitations shall not apply to accumulated member contributions of an individual who is neither a member nor a vested former member. (Ord. Unno. Passed 9-6-88.)

294.40 RETIREMENT SYSTEM INTENDED AS QUALIFIED PLAN

The City intends the Retirement System to be a qualified pension plan under Section 401 of the Internal Revenue Code, as amended, and that the trust be an exempt organization under Section 501 of the Internal Revenue Code. The Retirement Board shall administer the Retirement System so as to fulfill this intent, including, but not limited to, application of the benefit limits under Section 415 of the Internal Revenue Code. (Ord. Unno. Passed 9-6-88.)

294.41 CREDITING OF GIFTS AND BEQUESTS TO UNDISTRIBUTED INVESTMENT INCOME FUND

The Retirement Board is hereby authorized and empowered to receive donations, gifts and bequests and credit them to the Undistributed Investment Income Fund. (Ord. Unno. Passed 9-6-88.)

294.42 ASSUMPTION OF ASSETS AND OBLIGATIONS OF CHARTER RETIREMENT SYSTEM

- A. All of the assets and obligations of the Retirement System maintained pursuant to Chapter 8 of the City Charter, which chapter was repealed by the voters on February 16, 1988, shall be transferred to and become assets and obligations of this Retirement System on the effective date of this chapter. Assets registered in the name of the City Charter Retirement System may be held, sold or otherwise disposed of in accordance with the provisions of this chapter without the necessity of a prior change in registration.
- B. The Board of Trustees in existence under the City Charter Retirement System on the effective date of this chapter shall be the initial Retirement Board under the provisions of Section 294.35 and shall continue to hold office until expiration of the term of office or until otherwise removed as provided in this chapter. (Ord. Unno. Passed 9-6-88.)

294.43 INCREASES IN BENEFITS

Benefits payable as set forth in this chapter shall be increased by one percent per calendar year retired prior to December 31, 1990, but only in calendar years 1991 and 1992, unless extended by resolution of the City Council, to be payable in a lump sum without changing the amount of the basic benefits payable. (Ord. Unno. Passed 10-16-90.)

294.44 SEPARABILITY

If any section or part of a section of this chapter is for any reason held to be invalid or unconstitutional, such holding shall not be construed as affecting the validity of the remaining sections of this chapter or this chapter in its entirety. (Ord. Unno. Passed 9-6-88.)